

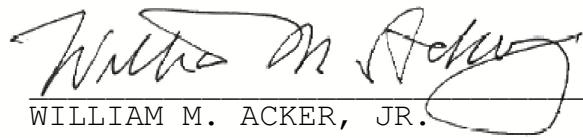
IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION

MEMORANDUM OF OPINION

The magistrate judge filed a report and recommendation on October 31, 2008, recommending that this action be dismissed without prejudice for failing to state a claim upon which relief can be granted, pursuant to 28 U.S.C. § 1915A(b)(1). The magistrate judge found that the provisions of *Heck v. Humphrey* are applicable to the plaintiff's damages claim and that any challenge to the fact or duration of the plaintiff's confinement must be brought by way of petition for writ of habeas corpus after exhaustion of all available state remedies. The plaintiff filed objections to the report and recommendation on November 26, 2008. In his objections he reiterates that the stopping of his vehicle and subsequent search and arrest were unconstitutional and have resulted in the loss of his job, home, car, and family. (Doc. # 17). However, he makes no showing how the provisions of *Heck v. Humphrey* would be inapplicable to this action or why his request for dismissal of all criminal charges is not more appropriately asserted in a petition for writ of habeas corpus. The plaintiff's objections are therefore without merit.

Accordingly, having carefully reviewed and considered *de novo* all the materials in the court file, including the report and recommendation and the objections thereto, the Court is of the opinion that the magistrate judge's report is due to be and is hereby ADOPTED and the recommendation is ACCEPTED. The complaint is due to be dismissed without prejudice pursuant to 28 U.S.C. § 1915A(b)(1). An appropriate order will be entered.

DATED this 3rd day of December, 2008.



WILLIAM M. ACKER, JR.
UNITED STATES DISTRICT JUDGE